

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WENDELL H. STONE COMPANY, INC.
individually and on behalf of all others
similarly situated doing business as
STONE & COMPANY,

18cv1135
ELECTRONICALLY FILED

Plaintiff,

v.

PC SHIELD INC. *an Oklahoma corporation,*

Defendant.

**MEMORANDUM ORDER RE PLAINTIFF'S MOTION TO DEEM REQUESTS FOR
ADMISSION ADMITTED ([DOC. 15](#))**

Pending is Plaintiff Wendell H. Stone Company, Inc. d/b/a Stone & Company's Motion to Deem Requests for Admission Admitted. ([Doc. 15](#)). Plaintiff served Defendant PC Shield Inc. with its First Set of Requests for Admissions on January 4, 2019. (*Id.*, Ex. B). As of March 14, 2019, the date the Motion was filed, Defendant had not served any responses to Plaintiff's Requests for Admission. (*Id.*, ¶ 7). Consequently, Plaintiff requests the Court enter an Order pursuant to Federal Rule of Civil Procedure ("Fed.R.Civ.P.") 36(a), deeming its First Set of Requests for Admissions admitted.

Default was entered in this case on October 30, 2018. ([Doc. 8](#)). On November 2, 2018, Plaintiff filed a Motion for Default Judgment, Motion for Class Certification, and Motion for Leave to Conduct Limited Discovery. ([Doc. 11](#)). The Court denied the Motions for Default Judgment and Class Certification without prejudice, and granted the Motion for Limited Discovery to the extent that the Court allowed Plaintiff to conduct discovery with respect to the class it seeks to certify pursuant to Fed.R.Civ.P. 23. ([Doc. 13 at 4-5](#)).

To date, Defendant has not filed a responsive pleading in this action and did not file a response to the pending Motion, although ordered to do so by the Court by text Order no later than March 25, 2019.

Fed.R.Civ.P. 36 (a)(3) clearly provides in relevant part: “[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney.” *Id.* As stated in *Wylie v. TransUnion, LLC*, Civ. No. 16-102, 2017 WL 4357981 (W.D. Pa. Sept. 29, 2017), the “[f]ailure to timely respond to such requests for admission within 30 days of service results in the automatic admission of the matters requested.” *Wylie*, 2017 WL 4357981, at *2 (citing Fed.R.Civ.P. 36(a)(3)); see also *Pritchard v. Dow Agro Services*, 255 F.R.D. 164, 172 (W.D. Pa. 2009) (same); *Wilson v. Children’s Museum of Pittsburgh*, Civ. No. 05-1748, 2006 WL 2529595, at *3 (W.D. Pa. Aug. 31, 2006) (same). As more than 30 days has passed since Plaintiff served its First Set of Requests for Admissions on Defendant, and Defendant has not served any responses to Plaintiff’s First Set of Requests for Admissions, Plaintiff’s Motion to Deem Requests for Admission Admitted is GRANTED. Plaintiff shall personally serve Defendant with a copy of this Memorandum Order and file with the Court a Notice that Defendant has been served.

SO ORDERED, this 26th day of March, 2019,

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All ECF Registered Counsel of Record